

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to  
Integrate and Refine Procurement  
Policies and Consider Long-Term  
Procurement Plans.

Rulemaking 10-05-006  
Filed May 6, 2010

**BRIEF ON TRACK II PROCUREMENT PLANS  
BY  
THE ENERGY PRODUCERS AND USERS COALITION**

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The Energy Producers and Users Coalition (EPUC)<sup>1</sup> submits this opening brief pursuant to the Assigned Commissioner's Scoping Memo of January 13, 2011. On March 25, 2011, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) filed Bundled Procurement Plans as part of Track II of this proceeding. This opening brief addresses deficiencies in the PG&E and SCE filings and seeks Commission action as follows:

1. The plans fail to include any combined heat and power (CHP) procurement after 2015, for the Second Period under the QF/CHP Program Settlement. The plans should be corrected to include an appropriate level of CHP procurement consistent with the utilities' obligations under the Settlement.
2. PG&E's plan fails to use the Long Term Procurement Plan (LTPP) standard planning assumptions directed by the Commission, and instead proposes new availability factors for CHP. These new assumptions are

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<sup>1</sup> EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LLC, Chevron U.S.A. Inc., ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

3. unreasonable, and will likely distort modeling results regarding CHP procurement; and
4. PG&E's plan fails to allocate GHG emissions for CHP facilities as directed by the Commission, and unreasonably proposes to allocate all emissions exclusively to electric output. This allocation ignores the simultaneous use of energy in a cogeneration process to also create a thermal output. PG&E's machination misrepresents the benefits of cogeneration, and would impose a severe penalty on the procurement of electricity from CHP.

The public versions of the PG&E and SCE plans reveal these defects. EPUC can only speculate as to the additional defects in the non-public versions of the utility plans. EPUC reserves its claims for access to all relevant data in this proceeding, and challenges the improper restrictions on EPUC's access to confidential data.<sup>2</sup>

In addition to the identified flaws in the utility plans, this opening brief addresses the testimony of Communities for a Better Environment (CBE) regarding presumed implications of CHP applications in petroleum refinery facilities. CBE argues that the Commission should not provide incentives for CHP facilities in refineries and apparently assumes that incentives for CHP facilities will also incent the building of new refinery capacity. CBE offers no link between the encouragement of CHP, consistent with the Integrated Energy Policy Report (IEPR), and the development of additional refining capacity. Indeed, CBE acknowledges that adding CHP to refinery facilities improves their efficiency and reduces total emissions.

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<sup>2</sup> EPUC continues to object to the current, overly-restrictive and vague constraints on Reviewing Representatives resulting from use of the problematic model protective order and non-disclosure agreement developed in the confidentiality docket, R.05-06-040. These improper restrictions bar market participants' access to essential data in this docket. A decision on rehearing in the confidentiality docket is now pending that should resolve these issues. Upon its adoption, conforming changes should be expeditiously made to the adopted protective order and non-disclosure agreement in this docket.

## I. THE PROCUREMENT PLANS MUST INCLUDE FORECASTS OF PROCUREMENT FROM CHP FOR THE ENTIRE PLANNING PERIOD

The QF/CHP Program Settlement approved by the Commission in D.10-12-035 determines the rights and obligations of the utilities in CHP procurement through the planning horizon for these procurement plans.<sup>3</sup> Specifically, these CHP procurement obligations are as follows:

1. During the Initial Program Period, the QF/CHP Settlement requires that the utilities enter into new PPAs with CHP facilities, specifically requiring 1,402 MW for SCE and 1,387 MW for PG&E.<sup>4</sup> The Initial Program Period ends four years after the effective date of the Settlement.<sup>5</sup> The Settlement should be effective by mid-July 2011.
2. The CHP capacity procurement obligation in the Second Program Period includes: (a) any portion of the utility's MW target that was not attained in the Initial Program Period; and (b) additional CHP capacity necessary to meet the utility's greenhouse gas emission reduction target as established by the Commission in the LTPP, taking into account the progress toward the MW target in the Initial Program Period.<sup>6</sup>

The utility plans adopted by the Commission must be consistent with those obligations, *i.e.*, consistent with D.10-12-035. However, the plans fail to comply with those obligations. The plans filed by the utilities start with CHP procurement obligations in the Initial Program Period, but there are no CHP procurement forecasts for the Second Program Period.<sup>7</sup> The proposed planning analysis in SCE's plan is for the 10-year

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<sup>3</sup> *Prepared Direct Testimony of Donald W. Schoenbeck*, May 4, 2011, p. 4 (Schoenbeck Testimony); D.10-12-035, pp. 16-17, December 21, 2010, A.08-11-001.

<sup>4</sup> *Schoenbeck Testimony* at 4; D.10-12-035, Attachment A: Settlement Agreement Term Sheet §2.2, December 21, 2010, A.08-11-001.

<sup>5</sup> *Id.*

<sup>6</sup> *Schoenbeck Testimony* at 4; D.10-12-035, Attachment A: Settlement Agreement Term Sheet §2.3, December 21, 2010, A.08-11-001.

<sup>7</sup> *Schoenbeck Testimony* at 5-6.

period 2012 to 2021,<sup>8</sup> and the proposed planning analysis in PG&E’s plan is for the 10-year period 2011-2020.<sup>9</sup> Since the Second Program Period extends through 2020 and is within the 10-year planning periods, compliant plans should reflect additional CHP capacity procurement beyond the Initial Program Period.

The Commission should require the utilities to include in their procurement plans for the Second Period the amount of new CHP consistent with planning assumptions already adopted in this proceeding. Decision 10-12-035 directs the utilities to revise their plans to reflect procurement of “*additional CHP capacity to meet the IOU’s GHG Emission Reduction Targets ...*,” which the CPUC will establish in an LTPP proceeding.<sup>10</sup> In order to establish GHG emission reduction targets, the Commission should initially require some assessment from the utilities in the form of a proposed procurement plan. Even if these targets are subject to revision and change, there should be an established CHP procurement plan to meet standards for capacity procurement from CHP resources. Accordingly, the procurement plans should at least reflect the standard planning assumptions’ targets of 409 MW and 322 MW of new supply-side CHP by 2020 for PG&E and SCE, respectively.<sup>11</sup>

The inadequacies of the utility procurement plans promote a policy of failure for CHP procurement obligations and objectives. Thus, the Commission should direct the

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<sup>8</sup> *Southern California Edison AB 57 Bundled Procurement Plan*, p. 1, March 25, 2011, R.10-05-006.

<sup>9</sup> See *Pacific Gas and Electric Company Bundled Procurement Plan – Public Version*, Appendix A Capacity and Energy Tables, Tables PGE-1 and PGE-2, March 25, 2011, R.10-05-006 (PG&E Bundled Plan).

<sup>10</sup> D.10-12-035, Attachment A: Settlement Agreement Term Sheet §2.3.2.3, December 21, 2010, A.08-11-001.

<sup>11</sup> *Assigned Commissioner and Administrative Law Judge’s Joint Scoping Memo and Ruling*, Attachment 1, pp. 17-18, December 3, 2010, R.10-05-006.

utilities to modify their plans to incorporate at a minimum the megawatt targets reflected above, and rely on future revisions of the plans to accommodate to-be-established GHG reduction targets.

## **II. PG&E'S OBJECTIONS TO PLANNING ASSUMPTIONS REGARDING AVAILABILITY FACTORS ARE UNTIMELY AND UNREASONABLE**

The Commission established a set of Standard Assumptions for the purpose of framing compliant utility procurement plans. PG&E takes issue with the capacity factor and on-peak availability assumptions reflected in the Standard Assumptions.<sup>12</sup> PG&E argues that CHP capacity factors of 92.2% and on-peak availability of 100% are too high; proposing instead 80% and 90%, respectively, for supply-side CHP.<sup>13</sup>

The availability factor of 90% proposed by PG&E is not consistent with the QF/CHP Program Settlement capacity performance requirements.<sup>14</sup> For the reliability critical peak months of June through September, the QF/CHP Program Settlement pro forma agreements for SCE and PG&E establish a capacity performance requirement that would equate to an average period capacity factor of 93.4% (assuming the CHP facility took full advantage of the maximum non-peak hour maintenance allowance for each of the four peak months).<sup>15</sup>

PG&E agreed to the terms of the QF/CHP Program Settlement. It has waived any objection to the terms of the Settlement, including the availability factors.

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<sup>12</sup> *Schoenbeck Testimony at 7-8; PG&E Bundled Plan. Testimony – Public Version*, p. III-9.

<sup>13</sup> *Id.*

<sup>14</sup> *Schoenbeck Testimony at 7-8.*

<sup>15</sup> *Id.*

The availability factors established in the Standard Planning Assumptions should be maintained.

### **III. PG&E'S ELECTION TO ASSIGN ALL GHG EMISSIONS FROM CHP TO THE ELECTRICAL SIDE IS UNREASONABLE**

PG&E feigns an inability to allocate GHG emissions between the thermal and electrical outputs of CHP facilities, and chooses the extreme of allocating all emissions to the electricity produced.<sup>16</sup> This extreme, one-end-of-the-allocation concept proffered by PG&E imposes severe and unreasonable burdens on the electricity produced by a CHP facility. The Scoping Memo of December 3, 2010 provided guidance to rely upon a heat rate of 8,893 BTU/kWh for allocating emissions.<sup>17</sup> Use of that assumption would certainly provide a more accurate forecast of comparative costs and emissions than PG&E's default.

### **IV. CBE'S OPPOSITION TO REFINERY CHP IS MISPLACED**

CBE included in its testimony some ambiguous and misplaced allegations regarding the environmental impact of petroleum refineries. While this issue is no doubt of significant concern to CBE, the issue is not within the scope of this proceeding. The appropriate issue presented in this proceeding is the procurement of cogeneration facilities to promote efficiency and reduce GHG emissions, regardless of their host facilities. CBE asserts that this proceeding should not provide any incentives for the development of CHP at petroleum refineries and that the Commission should revise the state's loading order based on the type of facilities in which CHP is located. It is

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<sup>16</sup> *Schoenbeck Testimony at 8. PG&E Bundled Plan Testimony – Public Version, pp. V-6 to V-7.*

<sup>17</sup> *Assigned Commissioner and Administrative Law Judge's Joint Scoping Memo and Ruling, Attachment 1, p. 41, December 3, 2010, R.10-05-006.*

irrational to suggest that electricity used at any facility should not be generated in the most efficient manner available, including the use of thermal generation. CBE admits in its testimony that CHP is highly efficient and that it decreases the GHG and other emissions that it seeks to eliminate.<sup>18</sup> CBE provides no rationale for why CHP should be discouraged in this one industrial sector.

CBE's testimony is based on the belief that a CPUC procurement policy can "*encourage expansion of oil refineries through encouraging more CHP.*"<sup>19</sup> CBE provides no support for this statement; it fails to provide any analysis of refinery expansion, let alone the impact of investments in CHP upon that expansion. CBE alleges that pollutant emissions from refineries will increase in the future, but then urges the state to limit incentives for cogeneration technologies that will make such refineries more efficient and less polluting;<sup>20</sup> that argument is contradictory and illogical.

CBE's suggestion to reconsider the state's loading order is inappropriate for an LTPP proceeding, let alone the track of an LTPP proceeding that considers the "*short-to-medium term operational needs of the utilities.*"<sup>21</sup> The state's loading order is a matter of state law, and the Commission's responsibility is to implement the loading order, not as CBE seeks, to revise state law.

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<sup>18</sup> *Prepared Opening Testimony of Julia May*, May 4, 2011, pp. 15, 18.

<sup>19</sup> *Id.* at p. 16.

<sup>20</sup> *Id.* at pp. 15 and 18.

<sup>21</sup> *Assigned Commissioner's and Administrative Law Judge's Scoping Memo for Track II Bundled Procurement Plans*, January 13, 2011, p. 3.



The Commission should reject and strike CBE's challenge to CHP procurement related to petroleum refineries as beyond the scope of this proceeding and inconsistent with state law supporting the maintenance and development of CHP resources.

## V. CONCLUSION

The Commission should require revisions to the utilities' procurement plans related to CHP resources as follows:

1. PG&E and SCE shall include projections of CHP procurement for the entire term of the planning horizon;
2. PG&E shall use the Standard Planning Assumptions as to availability factors for CHP; and
3. PG&E shall use the assumption regarding the heat rate of CHP units for allocating GHG emissions between the thermal and electrical outputs of CHP.

Respectfully submitted,



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